

Department of State

§ 127.12

(2) The completion of any administrative action pursuant to this part 127 or 128 of this subchapter a prior condition for the issuance, restoration, or continuing validity of any export license or other approval.

[58 FR 39316, July 22, 1993, as amended at 62 FR 67276, Dec. 24, 1997; 71 FR 20550, Apr. 21, 2006; 77 FR 16642, Mar. 21, 2012]

§ 127.11 Past violations.

(a) *Presumption of denial.* Pursuant to section 38 of the Arms Export Control Act, licenses or other approvals may not be granted to persons who have been convicted of violating any of the U.S. criminal statutes enumerated in § 120.27 of this subchapter or who are ineligible to receive any export licenses from any agency of the U.S. Government, subject to a narrowly defined statutory exception. This provision establishes a presumption of denial for licenses or other approvals involving such persons. This presumption is applied by the Directorate of Defense Trade Controls to all persons convicted or deemed ineligible in this manner since the effective date of the Arms Export Control Act (Public Law 94-329; 90 Stat. 729) (June 30, 1976).

(b) *Policy.* An exception to the policy of the Department of State to deny applications for licenses or other approvals that involve persons described in paragraph (a) of this section shall not be considered unless there are extraordinary circumstances surrounding the conviction or ineligibility to export, and only if the applicant demonstrates, to the satisfaction of the Assistant Secretary of State for Political-Military Affairs, that the applicant has taken appropriate steps to mitigate any law enforcement and other legitimate concerns, and to deal with the causes that resulted in the conviction, ineligibility, or debarment. Any person described in paragraph (a) of this section who wishes to request consideration of any application must explain, in a letter to the Deputy Assistant Secretary of State for Defense Trade Controls the reasons why the application should be considered. If the Assistant Secretary of State for Political-Military Affairs concludes that the application and written explanation have sufficient merit, the Assistant Secretary

shall consult with the Office of the Legal Adviser and the Department of the Treasury regarding law enforcement concerns, and may also request the views of other departments, including the Department of Justice. If the Directorate of Defense Trade Controls does grant the license or other approval, subsequent applications from the same person need not repeat the information previously provided but should instead refer to the favorable decision.

(c) *Debarred persons.* Persons debarred pursuant to § 127.7(c) (statutory debarment) may not utilize the procedures provided by this section while the debarment is in force. Such persons may utilize only the procedures provided by § 127.7(d) of this part.

[71 FR 20550, Apr. 21, 2006, as amended at 79 FR 8088, Feb. 11, 2014]

§ 127.12 Voluntary disclosures.

(a) *General policy.* The Department strongly encourages the disclosure of information to the Directorate of Defense Trade Controls by persons (see § 120.14 of this subchapter) that believe they may have violated any export control provision of the Arms Export Control Act, or any regulation, order, license, or other authorization issued under the authority of the Arms Export Control Act. The Department may consider a voluntary disclosure as a mitigating factor in determining the administrative penalties, if any, that should be imposed. Failure to report a violation may result in circumstances detrimental to U.S. national security and foreign policy interests, and will be an adverse factor in determining the appropriate disposition of such violations.

(b) *Limitations.* (1) The provisions of this section apply only when information is provided to the Directorate of Defense Trade Controls for its review in determining whether to take administrative action under part 128 of this subchapter concerning a violation of the export control provisions of the Arms Export Control Act and these regulations.

(2) The provisions of this section apply only when information is received by the Directorate of Defense Trade Controls for review prior to such